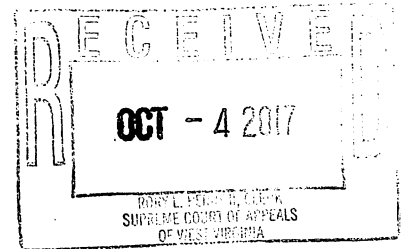




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October 3, 2017

Hon. Rory Perry, II, Clerk
 Supreme Court of Appeals of West Virginia
 State Capitol, Room E-317
 1900 Kanawha Blvd. East
 Charleston WV 25305

Re: iPacesetters, LLC v. Douglas
Brooke County Civil Action No. 10-C-33

Dear Mr. Perry:

Because the issue of successor liability is not a subject of the appeal, I was not adequately prepared to answer a question from the Chief Justice regarding Jason Fine. As noted in Judge Gaughan's order of October 21, 2013, Mr. Fine was the sole shareholder of TRAC, not of Telestar, which was my answer to the Chief Justice's question. Rather, Mr. Fine was the sole shareholder of TRAC, which was the sole shareholder of Telestar. [AP at 1424] Mr. Fine has no ownership interest and has never had any ownership interest in iPacesetters, which I believe was a question from the Chief Justice. [AP at 621] ("In the instant case there is no common identity of shareholders between iPacesetters and Tele-Response.")

Similarly, with the respect to the question from the Chief Justice regarding the federal tax lien, as noted in our reply brief:

Notably, Respondents do not dispute that the general rule under federal law with respect to the priority of federal tax liens, as interpreted by the Supreme Court, is "first in time is the first in right."¹ Rather, Respondents make the procedural argument that because the federal tax lien was not attached to an affidavit setting forth the payments made to the IRS, the existence of the obligations of Tele-Res should be ignored [Respondents' Brief at 14-17], but Respondents concede that (1) "Exhibit C to the DeBiasi affidavit has a list titled 'IRS Payments,'" [Respondents' Brief at 10], which constitutes documentation of the IRS tax payments;² (2) "these payments were made" after entry of "the lower court's

¹ *United States v. City of New Britain*, 347 U.S. 81, 74, 85-86 (1954).

² Indeed, Respondents' own brief references the specific dates and amounts of those federal tax payments [Respondents' Brief at 13] and the contract documents between Tele-Response and Petitioner reference federal tax obligations, state tax obligations, and local tax obligations. [App. 508-509]

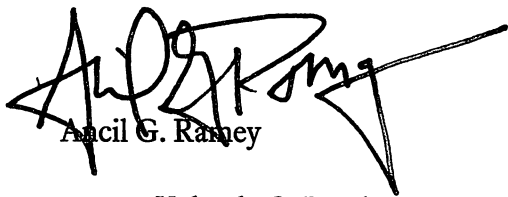
October 21, 2013 Order” [Respondents’ Brief at 11], which is a full year after service of the summons; and (3) “neither the IRS lien nor the Dresnok lien had been completely paid as of July 2014” [Respondents’ Brief at 11], which almost two years after service of the summons.³

In my response to a question from the Chief Justice, I was referencing Exhibit C to the DiBiasi affidavit, which was not a federal tax lien document, but a list of “IRS payments” constituting evidence of that federal tax lien obligation, and want to make certain to clarify my response to the question from the Chief Justice that I was referencing Exhibit C.

Finally, with reference to the documents produced by iPacesetters, the appellate record reflects that bank records requested by Plaintiffs relative to payments made by iPacesetters to Tele-Response were produced. [AP 3311]

Thank you for the opportunity to clarify these matters and if I can be of further assistance, please let me know.

Very truly yours,



Ancil G. Ramey

cc: Yolanda G. Lambert, Esq.
Brent W. Wolfingbarger, Esq

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³ Respondents also complain in their brief that, “The Petitioner never sought guidance from the Court on how it should properly dispose of sums it owned to Tele-Response after being served with the Respondents’ Suggestion” [Respondents’ Brief at 11][Emphasis supplied]; “the United States has made no effort in the case to protect its interests . . . or to prevent Petitioner from tendering those payments” [Id. at 12][Emphasis supplied]; and “Nor did Petitioner attempt to join the United States as a party” [Id.][Emphasis supplied], which would have been precluded by federal law as the federal government cannot be made a party to state court litigation, completely miss the point because debt obligations that arose after service of the summons, including those precipitating subsequent payments towards the federal tax obligations of Tele-Response, were beyond its statutory reach.